**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**

**&**

**THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY**

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**WRIT PETITION NO :12231 of 2004**

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**Dated: 20.09.2005**

Between:

K. Ramesh, S/o Bikshamaiah .. **Petitioner**

And

1. The District Medical & Health Officer,

Nalgonda, Nalgonda District and

Two others. **.. Respondents**

**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**

**&**

**THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY**

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**WRIT PETITION NO :12231 of 2004**

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**ORDER:** (Per Hon'ble Smt. Justice T. Meena Kumari)

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This writ petition is filed seeking a direction, in the nature of writ of certiorari, to set aside the Order dated 30.1.2004 in O.A.No.2373 of 2003 on the file of the A.P.

Administrative Tribunal, Hyderabad, and to direct the respondents to appoint the petitioner as MPHA (M) as per final orders of the APAT in O.A.No.6694 of 1999, dated 19.1.2000 with all consequential benefits.

The writ petitioner is the applicant before the Tribunal.

The brief facts in the O.A. are that on an earlier occasion, the applicant filed O.A.No.6694 of 1999 seeking to declare that the action of the respondents in allocating five vacancies of Multi Purpose Health Assistants (Male) from OC category to physically handicapped as arbitrary, illegal and violative of notification dated 9.6.1999 with a further direction to the respondents to fill up five posts by O.C. candidates in accordance with the rules and to consider the applicant under BC-D category. The Tribunal while disposing of the said O.A., made an observation that if three posts of OC (PH) Category are kept apart without being filled up for want of physically handicapped persons, contrary to the notification, the respondents are directed to fill up the three posts of OC Category also according to the merit list. If anyone of these posts is proposed to be filled up by the BC-D candidate by virtue of his ranking in the open competition, the case of the applicant be considered for appointment in the slot earmarked for BC-D candidates, if he had secured and stood behind the BC-D candidate, who secured the posting in the open competition. Further, the respondents are directed to complete this exercise within one month from the date of receipt of the copy of the Order.

As the Government has not complied with the orders of the Tribunal, the applicant filed C.A.No.574 of 2002 before the Tribunal. While the said C.A. is pending, pursuant to the order passed in the above O.A. No.6694 of 1999, the respondents issued proceedings dated 25.7.2002 rejecting the case of the applicant for appointment. Challenging the said proceedings, the applicant filed the present O.A.

The tribunal dismissed the present O.A.No.2373 of 2003 as well as the C.A. observing that in the earlier O.A., the Tribunal directed the respondents to fill up the three posts of O.C. category also according to the merit list. It is further observed that if any one of these posts is proposed to be filled up by the BC-D candidates by virtue

of the ranking, the case of the applicant shall also be considered. As it is not the case of the applicant that any candidate under BC-D category, has been appointed, the question of non-implementation of the earlier order in O.A.6694 of 1999, does not arise and the applicant is not entitled for appointment from the quota, which is earmarked for OC (PH) category as per Rule 22 of General Rules. Aggrieved by the same, the present writ petition has been filed.

Heard the learned Counsel on record and perused the material available on record.

A perusal of the record clearly goes to show that three posts of OC (PH) category are kept vacant for want of physically handicapped candidates. Hence, the Tribunal directed the respondents to fill up those posts according to the merit list irrespective of the roster system. It is further directed that if the respondents propose to fill up any one of these three posts with BC-D candidates, the case of the applicant shall also be considered.

At this stage, it is brought to the notice of this Court by the learned G.P. for Medical and Health that three posts earmarked for O.C. (PH) candidates, are filled up with such candidates and on that ground, the application of the applicant for appointment was rejected. The proceedings impugned or the averments in the O.A. do not show that the three posts in question are filled up with any BC-D candidate. As per order of the Tribunal, if any of the posts in question are proposed to be filled up with BC-D candidates, then only, the case of the applicant shall be considered.

In that view of the matter, we have no hesitation to hold that the findings of the Tribunal need no interference by this Court and further, the Tribunal is justified in directing the 3rd respondent to consider the representation of the applicant in accordance with law, and therefore, we see no merits in this writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice P. Lakshmana Reddy

Dated: 20.09.2005

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